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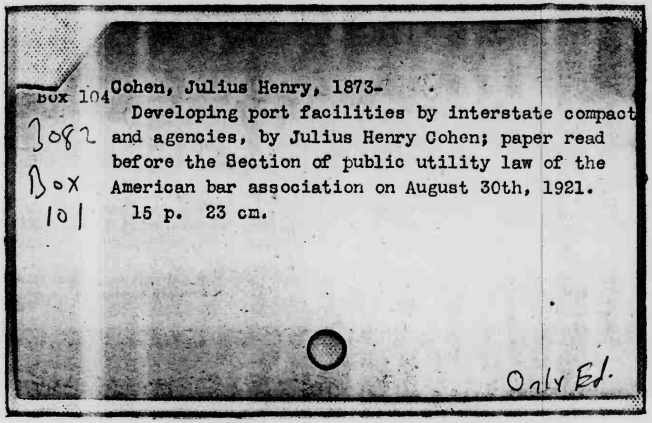

DEVELOPING PORT FACILITIES BY INTERSTATE COMPACT AND AGENCIES

BY

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In its decision in the New York Harbor Case, No. 8994, the Interstate Commerce Commission, quoting from the testimony of one of the witnesses, said:

> The essential defect of the country's railroad system is the great cost of terminal handling as compared with the economy of hauling the trains. . . . . Defective city terminals throughout the land must be enlarged, modernized and integrated. At each city, as in the cities of Europe, the terminals will come to be conducted as administrative units.

This point of view has been recently confirmed by the testimony of John F. Wallace, the engineer under whose general direction the Chicago terminal situation was worked out, and by various reports coming from the United States Shipping Board, the War Department, and elsewhere. The problem is nowhere more complicated and more difficult than at the port of New York, which handles more than half the commerce of the country. But though more difficult at the port of New York than elsewhere, the fundamentals of the New York port problem are present in other ports. The Chicago harbor problem, as outlined by Colonel W. V. Judson in a memorandum filed with the War Department, presents the problem of organizing, because of its superior adaptability for port purposes, a location upon the Lake Michigan shore which borders on the state line between Indiana and Illinois, and the recommendation made by the engineers is that the states of Indiana and Illinois should, by concurrent legislation, establish an interstate harbor commission.

In the report of the Committee on Interstate Compacts of the National Conference of Commissioners on Uniform State Laws, made at the session of the commissioners held contemporaneously with the present American Bar Association meeting, the com-

mittee (§4) stresses the necessity of cooperation between adjacent states in the matter of harbor development and recommends, as the type of expedient most adaptable for the harmonious administration of a commercial situation common to two or more states, the New York-New Jersey port treaty or compact. It would seem appropriate, therefore, that there should be presented to the lawyers forming the Public Utilities Section of the American Bar Association a brief outline of the nature and scope of the New York-New Jersey port treaty, and of what is contemplated thereunder.

First, a brief survey of the circumstances under which the treaty came to pass. In 1834, New York and New Jersey entered into a treaty[1] which determined the property rights and the jurisdiction of the two states and the territory within which criminal process might issue.[2]

In 1911, ex-President Wilson, then Governor of New Jersey, appointed a commission of three members to study the problem of port development in cooperation with a similar body representing the State of New York. Following the report of that Commission to the Legislature of New Jersey in 1914, the New Jersey Harbor Commission was created, consisting of five members. In 1915 the Commission was merged, together with several others, into the New Jersey Board of Commerce and Navigation. As a result of reports made by that Commission to the then Governor of New Jersey, Hon. James F. Fielder, he appointed a special committee to discover ways and means of securing a a readjustment of freight rates. This committee, which was known as the "Committee on Ways and Means to Prosecute the Case of Alleged Railroad Rate and Service Discrimination at the port of New York," instituted a proceeding before the Interstate Commerce Commission which is officially known as the New York Harbor Case, No. 8994. This case aroused very considerable opposition on the part of the State of New York, the City of New York and various civic and commercial bodies.

[1] Chap. 8, Laws of New York, 1834; Laws of New Jersey, 1833-34, p. 118; confirmed by the Congress of the United States, June 28, 1834 (U. S. 23 Cong., 1 Sess., Sen. Doc. No. 239).

[2] State *vs.* Babcock, 1 Vroom, 29; People *vs.* Central Railroad of New Jersey, 42 N. Y., 283; Ferguson *vs.* Ross, 126 N. Y., 459.

The Chamber of Commerce of the State of New York in an intervening petition filed on the 19th day of October, 1916, alleged that the proceeding was "instituted for the purpose of shifting the basic center of the commerce of the port of New York and thus artificially to stimulate the transfer of commercial and industrial advantages to the State of New Jersey, but to the great disadvantage of the City and State of New York."

The State of New York intervening in the proceedings by the Attorney-General alleged that "To break up the present port of New York into two ports—one a Jersey and one a New York port—is to abandon the policy of cooperation and of friendliness that for over a century had existed between the two states, and to develop a rivalry disadvantageous to both."

The City of New York, intervening in the litigation, charged "That the complaint . . . . in this proceeding proposes a reorganization of the port of New York as a whole in favor of the complainants, and to the damage of your petitioner, and which would give to the complainants certain advantages."

In its opinion, the Interstate Commerce Commission said:

> The ever-increasing cost of terminals and of terminal services presents a problem which the carriers must sooner or later face and solve. In the early days, when terminals were small and inexpensive, the cost of the line haul was the most conspicuous item of expense in the transportation service performed by the railroad.
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> The difficulty of attaining a physical co-ordination of facilities at the port, and administering them as an organic whole, is attributable in part to the nature of the harbor and to the fact that the opposite sides of the port lie in different states. One of the peculiar features of the port is its division into separate units. Manhattan, as previously explained, is separated from other parts of the port by the Hudson River, the East River and New York Bay. Staten Island, separated from Manhattan by the waters of the upper bay, presents peculiarly difficult problems to those who believe that the port can best be developed by co-ordinating its various parts and bringing them under a single administrative authority. Brooklyn, located on Long Island, is separated from New Jersey by the broad waters of the upper bay, and from Manhattan by the East River. That part of the port lying west of the Hudson River is in the State of New Jersey, and the fact that the port is thus divided into two parts by a state line cannot be overlooked by those who would understand its history and the problem confronting those who are interested in its development.

The Commission further found "that there is merit in the contention of the New York interveners that the *metropolitan* district should be regarded as a unit, and that lower rates to and from northern New Jersey would subject New York to undue

prejudice," and finally the Commission said that it could not "overlook the fact that historically, geographically, and commercially New York and the industrial district in the northern part of the State of New Jersey constitute a single community." Nevertheless, it said that the position taken by the complainants (New Jersey) "is in a measure justified from an economic viewpoint, and that while at the present time all parts of the metropolitan district may with propriety be grouped for rate-making purposes, there may come a time when the burden of handling the enormous tonnage in and out of the port will be so onerous that Manhattan itself may need such relief as lower rates to and from the New Jersey shore would in part afford."

While the New York Harbor Case was pending it resulted in wide discussion of the problem of port organization. Every trade and civic body within the metropolitan district became vitally interested. Fortunately, the case had an educational influence upon all of the participants as well as upon those concerned with the future development of the metropolitan district, and even while the case was pending, there gradually emerged the conception that whatever New Jersey might gain through success in the litigation, it could gain more through cooperation with New York, and that, on the other hand, New York could not afford to ignore the fact that it had heretofore regarded that portion of the port within state lines as being the entire port.

Thus it came about that upon the invitation of the New York State Chamber of Commerce, Governor Edge, of New Jersey, and Governor Whitman, of New York, were brought into conference.

In an address made by Governor Edge to the New York State Chamber of Commerce on March 1, 1917, he said:

> I want to see industrial New York and industrial New Jersey cooperating, especially located as they are, with this wonderful harbor between—and the harbor, my friends, is not alone New York's; the harbor is a national institution—and I feel very strongly on the subject of helping in its development, helping to relieve its congestion, helping to connect its business interests on either side of the harbor. In that way it will make for a greater development.

Chapter 426 of the Laws of 1917 of the State of New York and Chapter 130 of the Laws of 1917 of the State of New Jersey expressed in legislative enactment the first endeavor of the two states to cooperate. In urging the Legislature of New Jersey

to pass this legislation, Governor Edge, in a special message in 1917, stressed the creation of a "far-sighted interstate commission, which is oblivious to sectional prejudices and intent upon developing an important section of the country along broad lines."

Governor Whitman, on March 12, 1917, addressing the Legislature of the State of New York and urging the adoption of the measure, said:

> All but two of the trunk lines serving the port of New York terminate in our neighboring State of New Jersey. This makes it essential that any solution of the port problem should include a study of that portion of the port comprised within the northern part of New Jersey and, while it is beyond question that great benefits will accrue to the State of New York through a comprehensive port policy, benefits will also accrue to New Jersey.
>
> I have been in conference with the state engineer and surveyor of New York and the governor of New Jersey and they agree with me that it is imperative that both states should give immediate attention to this situation.

The Interstate Commerce Commission in the New York Harbor Case took under consideration the fact that New York and New Jersey were thus cooperating to relieve the situation, saying:

> In considering the situation here presented the commission cannot with propriety overlook the fact that bills have been introduced in the legislatures of the states of New York and New Jersey providing for the appointment by the governors of those commonwealths of state commissions to study jointly the situation at the port and make appropriate recommendations, "to the end that the said port shall be efficiently and constructively organized and furnished with modern . . . . piers, rail and water and freight facilities, and adequately protected in the event of war."

The two commissions, though legally independent, but required by the statutes to submit a joint report, organized as a single commission. The commission soon found that whatever physical plans might ultimately be worked out, it was essential that the two states be brought together in an agreement or compact fixing the bases and terms of cooperation and providing for legal machinery through which this cooperation could be made effective. Accordingly, as early as 1919 it directed its counsel to make a careful and exhaustive study of all the legal phases of the problem. Such a study was made and is contained in the "Preliminary Report of Counsel to Accompany the Tentative Draft of Proposed Treaty Amendatory and Supplementary

to the Treaty of 1834," annexed to the Progress Report of the Commission for 1919. The Commission concluded, as it says in its report,

> that the structure of a port authority for the port of New York should be built upon the firm foundation of the New York-New Jersey Treaty of 1834. It concluded, further, that in such an amendment of the treaty account should be taken of what is now known as the "Metropolitan District" and that commercially, as well as historically, the district is in fact, if not in law, one district.

With the cooperation of the leaders of the legislatures of both states, of both parties, and of Governors Whitman, Edge, Alfred E. Smith and finally Governor Miller, at the sessions of the New York and New Jersey legislatures of 1921 acts were passed by which commissioners were authorized to sign and execute the compact. It was executed and signed on April 30, 1921, in the great hall of the Chamber of Commerce of the State of New York, amid appropriate ceremonies and in the presence, among others, of Governor Miller, Senator Edge of New Jersey, Senator Calder of New York, ex-Governor Whitman, ex-Governor Smith, Attorney-General Thomas F. McCran of New Jersey, Darwin P. Kingsley, President of the Chamber of Commerce, and Irving T. Bush. The resolution of Congress giving approval to the compact was passed in the Senate on the 5th day of August, 1921, and in the House on the 12th day of August, 1921, and was signed by President Harding on August 23, 1921.

The recitals in the compact refer to the Treaty of 1834 between the states of New York and New Jersey "fixing and determining the rights and obligations of the two states in and about the waters between the two states, especially in and about the bay of New York and the Hudson River"; to the fact that "Since that time the commerce of the port of New York has greatly developed and increased and the territory in and around the port has become commercially one center or district"; that "It is confidently believed that a better coordination of the terminal, transportation and other facilities of commerce in, about and through the port of New York, will result in great economies, benefiting the nation, as well as the states of New York and New Jersey"; that "The future development of such terminal, transportation and other facilities of commerce will require the expenditure of large sums of money and the cordial

cooperation of the states of New York and New Jersey in the encouragement of the investment of capital, and in the formulation and execution of the necessary physical plans"; and that "Such result can best be accomplished through the cooperation of the two states by and through a joint or common agency." For these reasons the two states "*Do supplement and amend*" the Treaty of 1834 in the following respects:

ARTICLE I.

> They agree to and pledge, each to the other, faithful cooperation in the future planning and development of the port of New York, holding in high trust for the benefit of the nation the special blessings and natural advantages thereof.

ARTICLE II.

> To that end the two states do agree that there shall be created and they do hereby create a district to be known as the "Port of New York District" (for brevity hereinafter referred to as "The District") which shall embrace the territory bounded and described as follows:
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> (As the crow or aeroplane flies, the Port of New York District starts at about Piermont, crosses over somewhere between Helen Gould's playground and John D. Rockefeller's golf course, touches the Connecticut line, goes through Port Chester, then down and around Jamaica Bay, passes over to Sandy Hook, back and around the silk and woolen mills of Paterson, Passaic and thence up to Piermont again. The compact itself bounds the district by connecting points of known latitude and longitude.)

Article III provides as follows:

> There is hereby created "The Port of New York Authority" (for brevity hereinafter referred to as the "Port Authority"), which shall be a body corporate and politic, having the powers and jurisdiction hereinafter enumerated, and such other and additional powers as shall be conferred upon it by the legislature of either state concurred in by the legislature of the other, or by act or acts of Congress, as hereinafter provided.

Article IV provides that the Port Authority shall consist of six commissioners, three selected in such manner as shall be determined by the legislature of the State of New York and three selected in such manner as shall be determined by the legislature of the State of New Jersey, with the limitation that two commissioners from New York must be resident voters of the City of New York, and two commissioners from New Jersey must be resident voters within the New Jersey portion of the district, the terms of office of the commissioners, as well as the manner of their selection, to be fixed and determined from time to time by

the legislature of each state. "Each commissioner may be removed or suspended from office as provided by the law of the state for which he shall be appointed." Article V provides that the commissioners shall constitute a board and may adopt suitable by-laws for its management. Article VI provides that

the port authority shall constitute a body, both corporate and politic, with full power and authority to purchase, construct, lease and/or operate any terminal or transportation facility within said district; and to make charges for the use thereof; and for any of such purposes to own, hold, lease and/or operate real or personal property, to borrow money and secure the same by bonds or by mortgages upon any property held or to be held by it.

This article is subject to two important limitations:

No property now or hereafter vested in or held by either state, or by any county, city, borough, village, township or other municipality, shall be taken by the port authority, without the authority or consent of such state, county, city, borough, village, township or other municipality, nor shall anything herein impair or invalidate in any way any bonded indebtedness of such state, county, city, borough, village, township or other municipality, nor impair the provisions of law regulating the payment into sinking funds of revenues derived from municipal property, or dedicating the revenues derived from any municipal property to a specific purpose.

The powers granted in this article shall not be exercised by the port authority until the legislatures of both states shall have approved of a comprehensive plan for the development of the port as hereinafter provided.

Article VII provides that the Port Authority shall have such additional powers and duties as may be delegated to or imposed upon it by the legislature of either state "concurred in by the legislature of the other"; that the Port Authority shall make an annual report to the legislatures of both states "setting forth in detail the operations and transactions conducted by it pursuant to this agreement and any legislation thereunder." This article also contains the following limitation:

The port authority shall not pledge the credit of either state except by and with the authority of the legislature thereof.

Article IX provides:

Nothing contained in this agreement shall impair the powers of any municipality to develop or improve port and terminal facilities.

Article X provides:

The legislatures of the two states, prior to the signing of this agreement, or thereafter as soon as may be practicable, will adopt a plan or plans for the comprehensive development of the port of New York.

Article XI provides:

The port authority shall from time to time make plans for the development of said district supplementary to or amendatory of any plan theretofore adopted, and when such plans are duly approved by the legislatures of the two states, they shall be binding upon both states with the same force and effect as if incorporated in this agreement.

Article XII provides:

The port authority may from time to time make recommendations to the legislatures of the two states or to the Congress of the United States, based upon study and analysis, for the better conduct of the commerce passing in and through the port of New York, the increase and improvement of transportation and terminal facilities therein, and the more economical and expeditious handling of such commerce.

Under Article XXI, there is reserved to each state the right to withdraw from the treaty in the event "that a plan for the comprehensive development of the port shall not have been adopted by both states on or prior to July first, nineteen hundred and twenty-three."

Article XIII provides:

The port authority may petition any interstate commerce commission (or like body), public service commission, public utilities commission (or like body), or any other federal, municipal, state or local authority, administrative, judicial or legislative, having jurisdiction in the premises, after the adoption of the comprehensive plan as provided for in Article X for the adoption and execution of any physical improvement, change in method, rate of transportation, system of handling freight, warehousing, docking, lightering or transfer of freight, which, in the opinion of the port authority, may be designed to improve or better the handling of commerce in and through said district, or improve terminal and transportation facilities therein. It may intervene in any proceeding affecting the commerce of the port.

Article XIV provides for the election of a chairman, vice-chairman, and the appointment of officers and employees requisite to the Port Authority in the performance of its duties.

Article XV provides that the two states shall appropriate annually, in equal amounts, "for the salaries, office and other administrative expenses, such sum or sums as shall be recommended by the port authority and approved by the governors of the two states, but each state obligates itself hereunder only to the extent of one hundred thousand dollars in any one year" and "Unless and until the revenues from operations conducted by the port authority are adequate to meet all expenditures."

Article XVI provides that "Unless and until otherwise determined by the action of the legislatures of the two states, no

action of the port authority shall be binding unless taken at a meeting at which at least two members from each state are present and unless four votes are cast therefor, two from each state." The same article provides that "Each state reserves the right hereafter to provide by law for the exercise of a veto power by the governor thereof over any action of any commissioner appointed therefrom."

Article XVIII provides as follows:

> The port authority is hereby authorized to make suitable rules and regulations not inconsistent with the constitution of the United States or of either state, and subject to the exercise of the power of Congress, for the improvement of the conduct of navigation and commerce, which, when concurred in or authorized by the legislatures of both states, shall be binding and effective upon all persons and corporations affected thereby.

Article XIX provides that

> The two states shall provide penalties for violations of any order, rule or regulation of the port authority, and for the manner of enforcing the same.

Article XX provides:

> The territorial or boundary lines established by the agreement of eighteen hundred and thirty-four, or the jurisdiction of the two states established thereby, shall not be changed except as herein specifically modified.

Article XXII contains definitions.

In the City of New York *vs.* Willcox, a suit brought by the City of New York to restrain the signing of the agreement, Delehanty, Justice of the Supreme Court, denying the application, held that this treaty did not violate either the state or federal Constitution; that it was within the clear powers of the two states; that "The two states under the proposed legislation agree to cooperate, each within its own sovereignty remaining supreme"; "that the compact expressly limits the jurisdiction of the joint board of managers to such powers and authority as may be legally conferred upon them in conformity with the Constitution of the State of New York and the Constitution of the United States" and finally that "the act in question has been effectively drawn so as to preclude any point as to its unconstitutionality."

The report of the Committee on Interstate Compacts to the National Conference of Commissioners on Uniform State Laws concurs in this opinion.

The Secretary of War, in recommending Congressional approval of the treaty said that the addition of the proviso in the Congressional resolution similar to the one contained in the resolution approving of the Treaty of 1834, that "nothing therein contained shall be construed as impairing or in any manner affecting any right or jurisdiction of the United States in and over the region which forms the subject of said agreement" adequately preserved the interstate commerce powers under the federal Constitution.

Congress having given its assent to the treaty, it is unnecessary to consider what the two states might have done under the treaty even in the absence of Congressional approval. It will be sufficient to make two quotations from Mr. Justice Brewer's opinion in Stearns *vs.* Minnesota,[3] which also quotes from Mr. Justice Field's opinion in Virginia *vs.* Tennessee:[4]

> Section 10 of Article 1 of the Constitution provides that "no state shall, without the consent of Congress, ... enter into any agreement or compact with another state." It was early ruled that these negative words carried with them no denial of the power of two states to enter into a compact or agreement with one another, but only placed a condition upon the exercise of such power. (Stearns *vs.* Minnesota.)
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> There are many matters upon which different states may agree that can in no respect concern the United States. If, for instance, Virginia should come into possession and ownership of a small parcel of land in New York which the latter state might desire to acquire as a site for a public building, it would hardly be deemed essential for the latter state to obtain the consent of Congress before it could make a valid agreement with Virginia for the purchase of the land. If Massachusetts, in forwarding its exhibits to the World's Fair at Chicago, should desire to transport them a part of the distance over the Erie Canal, it would hardly be deemed essential for that state to obtain the consent of Congress before it could contract with New York for the transportation of the exhibits through that state in that way. *If the bordering line of two states should cross some malarious and disease-producing district, there could be no possible reason, on any conceivable public grounds, to obtain the consent of Congress for the bordering states to agree to unite in draining the district and thus removing the cause of disease.* So in case of threatened invasion of cholera, plague, or other causes of sickness and death, it would be *the height of absurdity to hold that the threatened states could not unite in providing means to prevent and repel the invasion of the pestilence without obtaining the consent of Congress*, which might not be at the time in session. If, then, the terms "compact" or "agreement" in the Constitution do not apply to every possible compact or agreement between one state and another, for the validity of which the consent of Congress must be obtained, to what compacts or agreements does the Constitution apply? . . . .

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[3] 179 U. S. 223, 245.

[4] 148 U. S. 503.

Looking at the clause in which the terms "compact" or "agreement" appear, it is evident that the prohibition is directed to the formation of any combination tending to the increase of political power in the states, which may encroach upon or interfere with the just supremacy of the United States. Story, in his Commentaries, §1403, referring to a previous part of the same section of the Constitution, in which the clause in question appears, observes that its language "may be more plausibly interpreted from the terms used, 'treaty, alliance or confederation,' and upon the ground that the sense of each is best known by its association (*noscitur a sociis*) to apply to treaties of a political character, such as treaties of alliance for purposes of peace and war, and treaties of confederation, in which the parties are leagued for mutual government, political cooperation, and the exercise of political sovereignty, and treaties of cession of sovereignty or conferring internal political jurisdiction, or external political dependence, or general commercial privileges"; and that "the latter clause, 'compacts and agreements,' might then very properly apply to such as regarded what might be deemed mere private rights of sovereignty, such as questions of boundary, interests in land situate in the territory of each other, *and other internal regulations for the mutual comfort and convenience of states bordering on each other.*" (Virginia *vs.* Tennessee, quoted in Stearns *vs.* Minnesota.)

The treaty having been ratified by Congress, what, then, may be done under it? In the first place, the Port Authority is the legally constituted agency for effectuating the pledge of cooperation made by each state to the other. Within the district limited, therefore, the two states are to work out a "comprehensive plan." This is now under way. Under Chapter 203 of the Laws of New York, 1921, and Chapter 152 of the Laws of New Jersey, 1921, the Port Authority is directed to confer with the railroad authorities, steamship authorities, municipal authorities, and to create an advisory council of boards of trade and civic bodies within the district. These conferences are now under way. The research work done by the former bi-state commission (the New York, New Jersey Port and Harbor Development Commission) and the plans recommended are made the basis of the study.

The railway executives have appointed a committee of railway presidents, consisting of the presidents of all the twelve railways entering the district. In turn they have designated their chief engineers to constitute a committee. The Advisory Council and the municipal authorities are being consulted by the Port Authority. The value of such a comprehensive plan, looking forward fifty or a hundred years, is, first of all, that the entire district will be treated as a unit; that there will be an actual basis for cooperation and coordination of facilities; that industries may

be laid out and developed by municipalities; that instead of congestion there may be distribution, and the whole problem of planning the future of a great district embracing eight million people, a population equal to the total population of all the New England States and Delaware, or equal to the population of the whole of Belgium, will be pushed forward toward its solution. It will be observed that under the compact—Article XVIII—no direct authority to regulate is conferred upon the Port Authority. It may recommend rules and regulations, which, when approved by the two states, are to be administered by the Port Authority. It has no power of veto over the plans of any municipality. It has no power to tax. It has no power of eminent domain. It must, therefore, proceed by negotiation to secure the consummation of the plans which the two states agree upon.

At once it will be observed that this agency is in one sense not so powerful as the New Orleans Harbor Commissioners, or the Montreal Harbor Commissioners, whose power over port development is supreme; but with the great City of New York on the east side of the port, and another city larger than Cincinnati or New Orleans on the west side of the port, another larger than Rochester, N. Y., or Portland, Oregon, and a grand total of some forty or fifty municipalities, each earnestly seeking its own development, it is obvious that at this great center of commerce the problem cannot be handled in such simple manner as it is handled at ports like New Orleans and Montreal. But there is one great advantage that the Port Authority possesses, which will, the writer believes, in the long run give it a potentiality second to none in the world. It is a body politic, an agency and instrumentality of the two states. It can borrow money upon its own bonds, *and such bonds will be tax exempt.*

The operation of terminal facilities today is so costly and the demand for additional harbor facilities at the port of New York so great that experience has already demonstrated, as in the case of the Staten Island piers, that in advance of construction leases can be made that will insure a revenue adequate to pay off operating expenses, obsolescence charges and the like, interest even at so high a rate as seven per cent, and amortize the principal in from thirty to fifty years. There is little doubt that the

securities of the Port of New York Authority, based, as they will be when issued, upon properties of ascertained productive capacity, will be marketable at a lower rate of interest than those of the railroads. The two states are limited in their borrowing capacity. The City of New York, rich and powerful as it is, is handicapped in its development by the constitutional debt limitation of ten per cent on the assessed valuation of its real estate. No such limitation exists in the case of the Port Authority. It is a new municipal agency of the state. Let it but satisfy investors that the earning capacity of its improvements is adequately proved and it can borrow moneys not now obtainable by the combined cities within the two states for the purpose of making the desired improvements.

Moreover, it can be the cooperating agency of all of the railroads entering the district. It can, by agreement with them, build and operate a joint terminal system. It can give aid and assistance to the municipalities within the district in their own harbor developments. For example, by agreement any one city within the district contemplating a self-sustaining improvement can agree with the Port Authority for the construction of the improvement and the raising of the necessary capital, the municipality contributing, say, twenty per cent thereof itself, upon the understanding that ultimately, when the debt has been completely amortized, the property shall revert to the municipality.

It may be said that this method is too cumbersome; that it will mean the delay of conferences with railroads, conferences with municipal authorities, the education of public opinion, and the like. But the writer believes that in the long run this method will succeed more promptly than would the method of absolute control and domination characteristic of other port authorities throughout the world. There is, of course, available the power of the Interstate Commerce Commission to exert pressure upon the railroads on the petition of the Port Authority, but the writer believes that this should be the last resort. It is not too much to say, speaking unofficially, that the conferences with the railway executives of the twelve great trunk lines entering the port of New York, already indicate that they appreciate the great

opportunity afforded through such an agency as the port of New York Authority for a scientific handling of the problem, for bringing them together in cooperation, and for raising the huge sums of capital necessary for modernizing the terminal facilities of the port of New York.

Undoubtedly, many new legal questions will arise as the work progresses. This kind of a public utility, under management and control by two states, opens up a new field of legal thought and action. Already seven states in the West—Arizona, California, Colorado, Nevada, New Mexico, Utah and Wyoming—propose to use the same method in developing the great hydro-electric power now lying dormant in the Colorado River.

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